UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III

1650 Arch Street Philadelphia, Pennsylvania 19103-2029

SUBJECT: Bulk Chemicals, Inc.

Response to Referral for CERCLA and EPCRA Penalties

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TO: Suzanne Parent, Chief

CERCLA Branch 2 (3RC20)

Arlín Galarza-Hernández, Chief

Oil and Prevention Enforcement Section (3ED12)

This memorandum (b) (5)(b) (5)(b) (5) from the Oil and Prevention Enforcement Section for penalties for alleged violations of Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11004, in connection with a June 9, 2019 release of nitric acid at a chemical manufacturing and distribution facility located at 809 Mohrsville Road in Shoemakersville, Pennsylvania (Facility), operated by Bulk Chemicals, Inc. EPA inspected the Facility after the release of nitric acid and subsequent fire.

On March 8, 2022, EPA issued a Notice of Potential Violations and Opportunity to Confer (NOPVOC) letter to Bulk Chemicals. The NOPVOC concerned the company's failure to timely report the nitric acid release to the National Response Center (NRC), as required by CERCLA 103, or to the State Emergency Response Commission (SERC), as required by EPCRA 304(a-b), and to timely submit written follow-up reports to the SERC and the Local Emergency Response Committee (LEPC), as required by Section 304(c) of EPCRA.

EPA participated in a settlement conference with representatives from Bulk Chemicals on March 15, 2022, and subsequently received a letter from Bulk Chemicals responding to the allegations. Based on the information received from Bulk Chemicals, (b) (5)(b) for the reasons set forth below.





Background

On May 23, 2019, Bulk Chemicals ordered three neoprene gaskets to fix a small leak on a 5,300-gallon stainless steel nitric acid tank. The tank was located in a sealed cinderblock containment area within the Facility. The gaskets were installed on May 31, 2019; unfortunately, the gaskets were incompatible with nitric acid. Bulk Chemicals received a delivery of nitric acid on June 3, 2019. Based on video footage, the release of nitric acid from the tank into the containment area began at 6:00 a.m. on Sunday, June 9, 2019. The nitric acid exited from the bottom of the containment area and travelled across the floor of the building until it reached the exterior wall. The nitric acid exited the building through the wall and traveled along a paved edge and grass area until it reached Mohrsville Road. Upon reaching the road, it flowed to a low point at the southwest corner of the Facility.

At 5:45 p.m. on June 9, 2019, the Fire Chief for the Shoemakersville Fire Department observed the release on the road. The Fire Chief notified the LEPC and Bulk Chemicals. The LEPC contacted the Pennsylvania Department of Environmental Protection (PADEP). An evacuation order was issued for ½ mile around the Facility. Berks and Lehigh County Hazmat Teams entered the Facility and stopped the release. Emergency responders transferred 2,000 gallons of nitric acid from the leaking tank into an open top mixing tank.

The first cleanup contractor arrived at 1:45 a.m. on June 10, 2019 to conduct exterior response and cleanup. Another contractor arrived onsite at 3:30 a.m. to conduct the cleanup of the interior of the Facility, including neutralizing nitric acid fumes. In the midst of cleanup efforts on June 10, 2019, an electrical fire started at the Facility at 10:44 a.m., attributed to nitric acid fumes compromising the electrical wiring and equipment. The Shoemakersville Fire Department arrived at the building, the building was evacuated, and electric power to the building was cut. Another evacuation order was issued for the community, at ¼ mile around the Facility. PADEP representatives visited the site around 8:00 a.m. on June 10, 2019. At the recommendation of the Director of the LEPC, Bulk Chemicals called the NRC at 12:32 p.m. on June 10, 2019 "in an abundance of caution." The Berks County EMA, Berks County Hazmat and PADEP requested that an EPA On-Scene Coordinator respond to the Facility. The OSC arrived at 7:00 p.m. on June 10, 2019. A third cleanup contractor replaced the first two on June 12, 2019. The containment area was pumped out and an unknown quantity was removed to vacuum trucks.

After the fire, Bulk Chemicals was not able to access the Facility to conduct an investigation for weeks. As Bulk Chemicals describes it, "Unsafe conditions that prevented access included damaged and unstable stacked chemical containers and a highly corrosive environment. In addition, fumed nitric acid residues created a slippery surface throughout the Facility making access to the top of the bulk storage tank... a significant safety hazard." When Bulk Chemicals was able to safely enter the Facility, in late July 2019, Bulk Chemicals undertook its investigation and additional remediation efforts. The cleanup contractor was present on July 25, 2019, at the time of the EPA inspection. The cleanup contractor told inspectors it was coring

through seams in the floor to determine if material was released through the floor. Borings continued through July 30, 2019, which revealed acidic soil. Soil was excavated from underneath the concrete floor beginning on August 29, 2019.

On August 15, 2019, before the excavation commenced, Bulk Chemicals sent written follow-up reports to the SERC and LEPC.

Discussion of Possible Violations.

Amount of Release to the Environment. During the inspection, Bulk Chemicals told EPA that approximately 1,850 gallons of nitric acid were released from the leaking tank, which is the figure EPA relied upon when assessing release reporting obligations under CERCLA and EPCRA. (b) (5)(b) (5)(b) (5)(b) (5)(b) (5)(b) (5) EPA learned during settlement discussions with Bulk Chemicals was that the amount of nitric acid released to the environment from the leaking nitric acid tank was not 1,850 gallons (or 14,472 pounds). Instead, the amount of nitric acid released to the road outside the facility was approximately 90 gallons (or 705 pounds), according to affidavits provided by Bulk Chemicals from its employees. Bulk Chemicals describes the employees as having prior experience responding to chemical spills; one of the employees has more than ten years' experience as a certified emergency response hazardous materials chemist. This estimated release amount is consistent with the still pictures from the video footage of the release on Mohrsville Road. This amount, 705 pounds, is below the reportable quantity (RQ) for nitric acid of 1,000 pounds. More nitric acid was released from the leaking tank, but the majority was released into the containment area within the Facility's warehouse and then pumped into the mixing tank or was absorbed by the cleanup contractor's absorbent material and drummed for disposal.

As discovered later, after the inspection, some nitric acid also leached below the concrete floor. This additional nitric acid was discovered during the July 25-29th sampling event, which revealed acidic soil in eight of the 41 samples. The amount of nitric acid that seeped beneath the concrete



Obligation to Report to NRC. Bulk Chemicals reported the nitric acid release to the NRC at 12:32 p.m. on June 10, 2019. At the time Bulk Chemicals reported the release, it was unknown whether more than the RQ of nitric acid had been released. Six weeks later, Bulk Chemicals learned that additional nitric acid seeped through the concrete floor, but the additional quantity released and the timing of the release are unknown.

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Were Follow-Up Reports Required or Untimely? Before the excavation commenced, Bulk Chemicals sent written follow-up reports to the SERC and LEPC, on August 15, 2019. Bulk Chemicals could not provide to EPA an estimate of the volume of nitric acid released underneath the concrete floor. (b) (5)(b) (5)(b



Other Factors. Another factor Bulk Chemicals brought up in the settlement negotiations is the amount of monies Bulk Chemicals has spent to date implementing work under an Administrative Compliance Order on Consent (Order) to correct violations of Section 112(r)(1) of the Clean Air Act (CAA),42 U.S.C. EPA § 7412(r)(1). Bulk Chemicals entered into the Order on August 27, 2020, to address violations of the General Duty Clause on August 27, 2020, at two other chemical processing and distribution facilities operated by Bulk Chemicals in Hamburg and Blandon, Pennsylvania. EPA had determined that Bulk Chemicals violated CAA Section

112(r)(1) at the Facilities because of its failure to ensure that the oxidizers, corrosives, flammables, and combustibles were stored safely in accordance with industry codes and standards. In the course of implementing the Order, Bulk Chemicals determined to terminate the lease of the Blandon Facility and move its chemicals to another newly leased facility, to which it made appropriate improvements. According to Bulk Chemicals, it has "expended just under \$2,500,000 in costs for consultants, process changes and construction expenditures as part of this effort, approximately \$1,000,000 for the installation of fire suppression and related detection and alarm systems [at] its various facilities, and the owners of BCI have invested \$2,000,000 in a new more state of the art facility that will further minimize the risk of future releases similar to the one in this instance."

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Please contact us if you would like to discuss further.